

**Amendments to the Claims:**

This listing of claims will replace all prior versions, and listings, of claims in the application:

What is claimed is:

1. (Currently amended) An isolated nucleic acid molecule
  - a) ~~consisting of comprising the nucleotide sequence of~~ SEQ ID NO: 5 or
  - b) less than 486 amino acids in comprising the nucleotide sequence of SEQ ID NO: 5

wherein said nucleic acid molecule regulates constitutive transcription of an operably linked nucleotide sequence of interest. ~~nucleic acid molecule is less than 1000 nucleotides in length.~~

2.-6 (Cancelled)

7. (Currently amended) The isolated nucleic acid molecule of claim 1, wherein said ~~sequence regulates transcription of an operably linked nucleotide sequence of interest~~ is a nucleotide sequence encoding a heterologous gene or fragment thereof.

8.-9. (Cancelled)

10. (Currently amended) ~~A~~ An isolated nucleic acid construct comprising, the nucleic acid molecule of claim 1, ~~a promoter sequence comprising the nucleic acid sequence of SEQ ID NO: 5~~ operably linked to a nucleotide sequence encoding a heterologous gene, wherein said heterologous gene encodes a protein of interest or fragment thereof.

11.-12. (Cancelled)

13. (Original) The construct of claim 10, further comprising a nucleic acid encoding a selectable marker.
14. (Original) The construct of claim 10, further comprising a nucleic acid encoding a reporter gene.
15. (Original) The construct of claim 10, wherein said heterologous gene is capable of altering an agronomic trait.
16. (Original) The construct if claim 15, wherein said agronomic trait is disease resistance, herbicide resistance, environmental stress resistance, enhanced growth, or increased yield.
17. (Original) The construct of claim 10, wherein said heterologous gene is a plant gene.
18. (Original) The construct of claim 10, wherein said heterologous gene is a structural gene.

19. (Original) The construct of claim 18, wherein said structural gene is an enzyme, a transcriptional regulator, a chaperonin protein or a scaffolding protein.
20. (Original) The construct of claim 19, wherein said enzyme is farnesyl transferase alpha, farnesyl transferase beta or CaaX prenyl protease.
21. (Currently amended) ~~A~~An isolated nucleic acid construct comprising, a promoter sequence ~~comprising~~consisting of SEQ ID NO: 5 operably linked to a non-translatable mRNA molecule of a gene encoding a protein of interest.
22. (Original) The construct of claim 21, wherein said non-translated mRNA molecule is an antisense nucleic acid, a hairpin RNA or a microRNA.
- 23.-24. (Cancelled)
25. (Original) The construct of claim 21, wherein said gene is capable of altering an agronomic trait.
26. (Currently amended) The construct ~~if of~~of claim 25, wherein said agronomic trait is disease resistance, herbicide resistance, environmental stress resistance, enhanced growth or increased yield.
27. (Original) The construct of claim 21, wherein said gene is a plant gene.
28. (Original) The construct of claim 21, wherein said gene is a structural gene.
29. (Original) The construct of claim 28, wherein said structural gene is an enzyme, a transcriptional regulator, a chaperonin protein or a scaffolding protein.
30. (Original) The construct of claim 29, wherein said enzyme is farnesyl transferase alpha, farnesyl transferase beta or CaaX prenyl protease.
31. (Original) A vector comprising the nucleic acid molecule of claim 1.
32. (Original) A cell comprising the vector of claim 31.
33. (Original) The cell of claim 32, wherein said cell is a plant cell.
34. (Original) The cell of claim 33, wherein said plant cell is monocotyledonous.
35. (Original) The cell of claim 33, wherein said plant cell is dicotyledonous.
36. (Original) A vector comprising the nucleic acid construct of claim 10.

37. (Original) A cell comprising the vector of claim 36.
38. (Original) The cell of claim 37, wherein said cell is a plant cell.
39. (Original) The cell of claim 38, wherein said plant cell monocotyledonous.
40. (Original) The cell of claim 38, wherein said plant cell is dicotyledonous.
41. (Original) A vector comprising the nucleic acid construct of claim 21.
42. (Original) A cell comprising the vector of claim 41.
43. (Original) The cell of claim 42, wherein said cell is a plant cell.
44. (Original) The cell of claim 43, wherein said plant cell monocotyledonous.
45. (Original) The cell of claim 43, wherein said plant cell is dicotyledonous.
46. (Original) A method of producing a transgenic plant comprising introducing into a plant cell the vector of claim 36, to generate a transgenic cell and regenerating a transgenic plant from said transgenic cell, wherein said transgenic plant expresses said protein of interest.
47. (Original) The method of claim 46, wherein said expression is constitutive.
48. (Cancelled)
49. (Original) The method of claim 46, wherein said plant cell is monocotyledonous.
50. (Original) The method of claim 46, wherein said plant cell is dicotyledonous.
51. (Original) A method of producing a transgenic plant comprising introducing into a plant cell the vector of claim 41, to generate a transgenic cell and regenerating a transgenic plant from said transgenic cell, wherein said transgenic plant expresses said protein of interest at a decreased level as compared to a wildtype plant
52. (Original) The method of claim 51, wherein said plant cell is monocotyledonous.
53. (Original) The method of claim 51, wherein said plant cell is dicotyledonous.
54. (Original) The transgenic plant produced by the method of claims 46.
55. (Original) The seed produced by the transgenic plant of claim 54, wherein said seed produces a plant that expresses said protein of interest.

56. (Original) The transgenic plant produced by the method of claims 51.
57. (Original) The seed produced by the transgenic plant of claim 56, wherein said seed produces a plant that expresses said protein of interest at a decreased level as compared to a wildtype plant.
58. (Original) A method of expressing a heterologous protein comprising introducing to a cell the construct of claim 10 and expressing said heterologous protein in said cell.
59. (Original) The method of claim 58, wherein said cell is a plant cell.
60. (Original) The method of claim 59, wherein said plant cell is monocotyledonous.
61. (Original) The method of claim 59, wherein said plant cell is dicotyledonous.